

35 USC 103

A. Applicant traverses the rejection of Claims 9-28 as being obvious over claims 1-15 of U.S. Patent 7,384,107.

Claims 1-15 of U.S. Patent 7,384,107 are directed to a modular system wherein the rear end of the vertical screens touches the backwall. In contrast, the present invention is directed to a modular system wherein the rear end of the vertical screens does not touch the backwall of the modular system.

In order to expedite prosecution, Applicant submits a Terminal Disclaimer to obviate the double patenting rejection over U.S. Patent 7,384,107

Accordingly, Applicant requests the withdrawal of the rejection of Claims 9-28 over claims 1-15 of U.S. Patent 7,384,107.

B. Applicant traverses the rejection of Claims 9-28 as being rejected over claims 1-15 of U.S. patent 7,384,107 in view of Huizenga, U.S. 4,928,833.

U.S. Patent 7,384,107 has been discussed above and the arguments above apply to this rejection.

As discussed in previous response, the storage organizer of Huizenga as shown in Figures 1-6, more specifically, Figures 1-2, 3, 5 and 6, employ a horizontal support rail 6 attached to the wall for the support of the end panels 1 and 2, and intermediate panels 3 and 4. The panels of Huizenga contain cutout portion to receive the support rail projection and to form a snug fit. In contrast, the present invention does not employ a support bar, rather employs specially designed screws for support.

Additionally, Huizenga discloses three upright, 3, 4 and 5 and two end panels 1 and 2 that are predrilled with holes to receive rod end supports and shelf pins. In contrast, the panels in present invention are not predrilled.

Huizenga employs end panels 1 and 2, next to side walls 8 and 9. In contrast, the present invention is directly mounted on the opening side wall, thus reducing structure cost.

Moreover, the end panels 1 and 2 and the vertical or intermediate panels 3 and 4 of Huizenga bring support by standing on the floor. These vertical panels are extended,

engaged and abutted the back wall 7. In contrast, the end of the vertical panels of the present invention do not touch the back wall. The main reason for this strategy is that the system is easier to clean, the clothes are ventilated in the deepest part, prevent stuffing which favors insect multiplication, fungus growth or moisture accumulation.

Furthermore, the placing of the vertical screens away from the back wall makes it easier to adequately spread the weight of the closet and the load received by the hanging pipes that support hanging clothes avoiding a possible maladjustment or deformation of the structure of the closet inside part.

Finally, the embodiments of Claims 17-18, 21-22 and 25 with regard to enclosure space are different and unobvious over Huizenga. There is no disclosure or suggestion in Huizenga regarding the enclosure space claimed in the present invention. The vertical screens are half as wide as the depth of the shelves and the shelves are fastened at mid depth in such a way that they are spaced with regard to the enclosure, i.e., they are fastened touching the wall of the enclosure.

A person of ordinary skill in the art not only should have had some motivation to combine the prior art teaching but some motivation to combine prior art teaching in a particular manner claimed. *In re Kotzab*, 217 F.3d 1365 (Fed. Cir. 2000).

Combining prior art references without evidence of such a suggestion, teaching or motivation simply takes inventor disclosure as a blueprint for piecing together prior art to defeat patentability is the essence of hindsight. *In re Dembiczek*, 175 F.3d 994 (Fed. Cir. 1999).

Where the prior art does not appreciate the existence of the problem solved by the invention, the Applicant's recognition of the problem is, in itself, strong evidence of the non-obviousness of the invention. *In re Sponnable*, 160 USPQ 237, 243 (CCPA 1969).

There is no motivation for combining the cited prior reference within the reference themselves. Obviousness can not be established by combining prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. The mere fact that prior art may be modified in a manner suggested by the Examiner does not make the modification obvious unless prior art suggested desirability of the modification. *Ex parte Gottling* (BPAI 2005).

The *only* possible motivation would have been supplied by the Applicant's own specification, which of course would be proscribed as hindsight application of Applicant's own teachings.

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Combining prior art references without evidence of such a suggestion, teaching or motivation simply takes inventor disclosure as a blueprint for piecing together prior art to defeat patentability-the essence of hindsight. In re *Dembiczek*, 175 F.3d 994 (Fed. Cir. 1999).

From the above, the Examiner has not shown that Huizenga provides a motivation or suggestion in the prior art to show the incorporation of its teaching in U.S. Patent 7,384,107 and arrive at the presently claimed invention

It is submitted that the modular system of the present invention is not obvious over U.S. Patent 7,384,107 in view of Huizenga. In view of the above, the withdrawal of the rejection of Claims 9-28 as being obvious over U.S. Patent 7,384,107 in view of Huizenga is respectfully requested.

In the event that there are any problems which can be expedited by telephone conference, the Examiner is invited to telephone the Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,
LAW OFFICE OF CARMEN PILI EKSTROM

Attorney Docket No. MX/JFC04-GO-02

Date: June 3, 2009

727 Sunshine Dr.

Los Altos, CA 94024

(650) 960-1936

Enclosures: Terminal Disclaimer and fee

By: 

Carmen Pili Ekstrom

Registration No. 34,981